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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,385	12/14/2001	Douglas Paul Allard	11533.0012.CPUS05	6843

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09/09/2004

Howrey Simon Arnold & White, LLP  
750 Bering Drive  
Houston, TX 77057

EXAMINER
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PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/017,385

Applicant(s)

ALLARD ET AL.

Examiner

Alexandra K Pechhold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-14 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/24/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**2. Claims 1-3, 5, 6, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehrer (US 5,567,461).**

Regarding claim 1, Lehrer discloses an apparatus comprising:

- a) a filtration device, seen as pockets (18) in Fig. 3, dimensioned to fit within an inlet and obstructing at least a portion of the inlet,
- b) a filtration device support, seen as bottom layer (12), dimensioned and adapted to cooperatively engage with the inlet and with the filtration device in a pre-selected position within the inlet, and
- c) a separate adjustable deflector ring, seen as the top layer (14), connected to the filtration device support, the layer (14) containing at least one flow control wall along at least one outer edge, seen in Fig. 3 as the circumferential wall formed in the basket (22) by the layer (14).

Regarding claim 2, the cylindrical wall formed by layer (14) traverses the entire perimeter of the layer (14).

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Regarding claim 3, the layer (14) has sufficient space for marking or advertising viewable to the naked eye.

Regarding claim 5, the layer (14) extends above the pockets (18) as shown in Fig. 3.

Regarding claim 6, the pockets (18) of Lehrer can be viewed as baskets.

Regarding claim 10, the numerous pockets (18) of Lehrer can be viewed as one or more fluid displaceable absorbent containers.

Regarding claim 11, the dimension of the top layer (14) can be easily adjusted, since it can be positioned at a different angle to accommodate varying circumferences.

**3. Claims 1-3, 5, 6, and 9-11 are also rejected under 35 U.S.C. 102(b) as being anticipated by Stetler (US 5,744,048).**

Regarding claim 1, Stetler discloses an apparatus comprising:

a) a filtration device, seen as the filtration vessel (50) in Fig. 2 which has absorbent media, dimensioned to fit within an inlet and obstructing at least a portion of the inlet, as Fig. 2 shows,

b) a filtration device support, seen as standpipe (100), dimensioned and adapted to cooperatively engage with the inlet and with the filtration device in a pre-selected position within the inlet, and

c) a separate adjustable deflector ring, seen as the screen (60), connected to the filtration device support, the screen (60) containing at least one flow control wall along at least one outer edge, seen in Fig. 2 as the circumferential wall formed by the screen (60).

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Regarding claim 2, Fig. 2 shows the wall of the screen (60) traversing the entire perimeter of the screen.

Regarding claim 3, the screen (60) has sufficient space for marking or advertising viewable to the naked eye.

Regarding claim 5, Fig. 3 illustrates the screen (60) positioned above the vessel (50) such that a high flow bypass is formed therebetween.

Regarding claim 6, the vessel (50) can be viewed as a basket.

Regarding claim 9, Stetler discloses:

a) an initial high flow bypass, described in column 10, lines 49-65 as when the runoff flows through screen (60) coming into contact with absorbent media and flows out of the filtration vessel (50), and

b) a secondary high flow bypass, described by Stetler under the high flow conditions in column 10, lines 66-67 and column 11, lines 1-7.

Regarding claim 10, one or more fluid displaceable containers can be seen as the absorbent media in the vessel (50), which is capable of being fluidly displaced.

Regarding claim 11, the screen (60) can be easily adjusted since it is made from a sheet of flattened expanded metal.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

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be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehrer (US 5,567,461).** Lehrer fails to disclose the material of the pockets (18), but does disclose that the pockets have circular or other geometric shape in the form of a grid and are filled with filter media (20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the material of the pockets (18) of Lehrer to be wire mesh panels, since Lehrer states in column 4, lines 12-22 that liquid has to flow through the pockets (18), and wire mesh panels would allow for that purpose while still containing filter media (20).

**6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehrer (US 5,567,461) as applied to claim 1 above, and further in view of Tucker (US 5,656,315).** Lehrer fails to disclose marking or advertising on the top layer (14). Tucker teaches a sheet of a coffee filter with an advertising mark on it seen in Fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the layer (14) of Lehrer to include marking or advertising as taught by Tucker, since Tucker states in column 3, lines 47-50 that embossment on a coffee filter may include the application of a brand name or other indicia in addition to or in lieu of the logo for purposes of ornamentation, advertising, or identification.

**7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stetler (US 5,744,048).** Stetler fails to disclose the standpipe (100) comprising

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one or more support brackets attached to a catch basin and one or more flanges, the one or more flanges being both connected to the filtration device and supported by the one or more support brackets. Yet Stetler discloses that the standpipe (100) has a gasket to connect to the vessel (50) and complementing dimensions between the standpipe and vessel to ensure support and a good seal (Col 10, lines 22-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the standpipe (100) of Stetler to comprise one or more support brackets attached to a catch basin and one or more flanges, the one or more flanges being both connected to the filtration device and supported by the one or more support brackets, since this is merely an alternate means for ensuring a secure connection between the vessel and standpipe which is just as readily achieved by the means Stetler describes in column 10, lines 22-29.

**8. Claim 4 is also rejected under 35 U.S.C. 103(a) as being unpatentable over Stetler (US 5,744,048) as applied to claim 1 above, and further in view of Singleton (US 6,261,445 B1).** Stetler fails to disclose marking or advertising on the screen (60). Singleton teaches a marking on an enclosure for a drop inlet as shown in Fig. 3 for safety precautionary measures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the screen (60) of Stetler to include marking or advertising as taught by Singleton, since Singleton states in column 2, lines 55-64 that such warning minimizes the risk of accidents due to persons falling or climbing into the open inlet.

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***Allowable Subject Matter***

9. Claims 12-14 are allowed.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
8/30/04